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June 15, 2018

By First-Class Mail

City of Central Falls Police Department
ATTN: Colonel James J. Mendonca
160 Illinois Street
Central Falls, RI 02863

Mayor James A. Diossa
Director of Public Safety
City of Central Falls
580 Broad Street
Central Falls, RI 02863

Re: **Report on Investigation into Sexual Harassment Allegations by** [REDACTED]

Gentlemen:

On April 17, 2018, [REDACTED] a dispatcher with the Central Falls Police Department (the "Department") submitted a Charge of Discrimination (the "Charge") to the Rhode Island Commission for Human Rights (the "Commission"), alleging that she had been subjected to sexual harassment and a hostile work environment based on her sex while employed at the Department. Her Charge named at least a dozen employees of the Department as either witnessing or engaging in sexual harassment. The Department retained my firm to perform an independent investigation into [REDACTED] allegations of sexual harassment.

Investigation

I first contacted [REDACTED] attorney, but [REDACTED] declined to submit to an interview concerning the allegations she made in her Charge. Next, I interviewed the following employees of the Department: [REDACTED]

[REDACTED] was also named in [REDACTED] Charge. I contacted his attorney and was told [REDACTED] declined to submit to an interview at this time.

Relationship to LEOBOR

Each of the officers interviewed is represented for purposes of collective bargaining by the Fraternal Order of Police, Lodge 2 ("FOP"). Before any interviews commenced, counsel for the FOP notified the undersigned that certain provisions of the Law Enforcement Officers' Bill of Rights ("LEOBOR"), G.L. 1956 § 42-28.6-1 et seq., as well as police officer "Garrity Rights,"

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would possibly be implicated by any interviews conducted by either the City or its designee relative to the City's anti-harassment policies.

Each officer waived his or her right to have the interview conducted by a law enforcement officer inside the police station. Because the undersigned acted on behalf of the City, all officers were compelled to be interviewed, under threat of termination, and therefore, each officer was provided with his or her Garrity Rights in writing. The City has agreed that should any findings suggest possible violations of any administrative rules or regulations of the Department or the City by any covered officer, the City will need to comply with LEOBOR in the event of any future investigation into said potential violations.

It is under these circumstances that the interviews of law enforcement officers covered by LEOBOR were conducted by this office. A summary of those interviews follows.

[REDACTED]
[REDACTED] has worked for the Department for [REDACTED] years and in addition to her duties in the patrol division, she is the [REDACTED]. She is [REDACTED] at the Department, a role that primarily requires her to work together with the Mayor of Central Falls and City Hall [REDACTED].

In her Charge, [REDACTED] alleged that in September of 2015, [REDACTED] notified [REDACTED] that [REDACTED] was harassing a newly hired dispatcher. [REDACTED] did not have a recollection of this conversation. [REDACTED] also alleged that in June of 2017, [REDACTED] and [REDACTED] discussed sexual harassment allegations made by [REDACTED] a female officer in a different town, and that they "pale[d] in comparison" to the harassment that females in the Department faced. [REDACTED] believed [REDACTED] had a conversation with [REDACTED] about [REDACTED] allegations, which were in the news at the time, but could not recall specific details of a conversation in June of 2017.

More generally, [REDACTED] did not recall receiving complaints from [REDACTED] about [REDACTED] sexual behavior. She did receive some complaints about the working conditions in the dispatch center. According to [REDACTED] issues or complaints of that nature require a memorandum on the subject for [REDACTED] to pass up the chain of command to her own supervisor. [REDACTED] recalled getting some memoranda on the subject of the working conditions on the dispatch area, and passing them up to her supervisor.

[REDACTED]
[REDACTED] has been with the Department for approximately [REDACTED] years. He served on [REDACTED] shift in 2017. In her charge, [REDACTED] alleged that in late summer 2017, she reported to [REDACTED] that a new probationary officer was giving her and another female dispatcher "secretarial" tasks to complete in addition to their regular duties, because they were female. She alleged that she told [REDACTED] about this because it had been occurring with other officers and supervisors throughout her employment. [REDACTED] confirmed that [REDACTED] did come to him to complain about a probationary officer.

Specifically, he recalled her stating this officer was having dispatchers assist with certain tasks that typically the officers themselves perform if time allows. He stated that he spoke with the officer involved, who as a probationary officer, did not yet understand the procedure on when certain tasks should be delegated to dispatchers. [REDACTED] added that after this conversation with the probationary officer, he did not receive any additional complaints on the issue, nor did [REDACTED] state that she had experienced the problem with other officers or supervisors.

[REDACTED] has worked for the Department for [REDACTED] years, first as a dispatcher, and later as a patrol officer. Currently, she is one of three patrol officers on day shift and does not work shifts with [REDACTED]. [REDACTED] alleges that she witnessed [REDACTED] being harassed and discriminated against by a former romantic partner who also worked at the Department. [REDACTED] stated that other than [REDACTED] observations of [REDACTED] as they interacted at the Department, [REDACTED] had no involvement in the relationship between [REDACTED].

[REDACTED] also claimed that on one occasion, [REDACTED] asked her to contact [REDACTED] from the police department phone because [REDACTED] had blocked his cell phone number. [REDACTED] confirmed that she blocked [REDACTED] cell phone number, but did not know who he asked to contact her.

[REDACTED] has been with the Department for over [REDACTED] years. [REDACTED] worked as a dispatcher for three years before becoming a patrol officer and later [REDACTED]. While working on [REDACTED] shift, [REDACTED] would interact with [REDACTED] but since becoming a [REDACTED] and working [REDACTED] shift, [REDACTED] does not see [REDACTED] except in passing at shift change.

In her Charge, [REDACTED] alleged that [REDACTED] would comment on the smell and temperature of the dispatch room, referring to it as "swampy" and "musty." She claimed that in June 2017, [REDACTED] was with [REDACTED] in the dispatch area finishing paperwork, and that [REDACTED] used the word "moist." [REDACTED] noted that he specifically used the word "moist" because [REDACTED] does not like that word. [REDACTED] confirmed that she does not like the word moist, but did not have any recollection of the conversation with [REDACTED] in June 2017 as alleged by [REDACTED].

[REDACTED] has been with the Department for [REDACTED] years and began working there in [REDACTED] as a patrol officer. He was promoted to [REDACTED] in 2012 and worked primarily on [REDACTED] shift from [REDACTED] where he worked regularly with [REDACTED]. In January 2017, he was assigned to the Department's [REDACTED] office, which meant a change to [REDACTED] shift. More

recently, in January 2018, [REDACTED] was promoted to [REDACTED] and returned to the patrol division.

[REDACTED] made a number of allegations against [REDACTED]. She first claimed that in spring or summer of 2012, she was in [REDACTED] office and had been scratching her shoulder when [REDACTED] remarked she was "playing with her boobs and "giving [REDACTED] a chubby." [REDACTED] recalled a similar incident that occurred when [REDACTED] was standing in the doorway to his office, but stated he recalled [REDACTED] was adjusting or scratching her bra strap at the time, and that he said to her something along the lines of, "It's not a big deal, but just be mindful of what you're doing," in reference to her adjusting her bra strap while standing in the doorway.

[REDACTED] also alleged that at some point in the spring or summer of 2012, [REDACTED] called her into his office while [REDACTED] was there and said something to the effect of, "I want to see how many seconds until [REDACTED] sexually harasses you." [REDACTED] had no memory of this incident.

[REDACTED] alleged that beginning in 2012, [REDACTED] remarked that she had a sexual preference for black men, would say she liked "BBC" or "big black cock," and would remark that when the City detained a black individual, that the person was "her type." [REDACTED] had no recollection of these statements or of ever using the terms "BBC" or "big black cock."

In her Charge, [REDACTED] further alleged that in or about May 2012, [REDACTED] made remarks about one of her shirts, saying that it was "see-through," that her bra could be seen through the shirt, and that it was his "favorite shirt." [REDACTED] stated that he remembered the discussion of her shirt differently, and that while he did not recall the specific date, he remembered that they met for drinks with other Department employees one evening at Curbside, a bar in Cumberland, Rhode Island. Before the others arrived, [REDACTED] and [REDACTED] were sitting over at the right corner of the bar. [REDACTED] removed her outer layer of clothing, and [REDACTED] told her, "I don't know if you're aware, but your shirt is see-through." [REDACTED] said something to the effect of, "Oh my gosh, I didn't know," and put a jacket or sweater back on.

[REDACTED] alleged without specifying the time frame that [REDACTED] would call dispatchers "hyenas," a word that [REDACTED] denied using to describe dispatchers or anyone else that the Department. [REDACTED] noted that he had used the word about twice, in referring to someone's style of laughing "like a hyena," but not [REDACTED]

[REDACTED] also alleged without specifying the time frame that [REDACTED] would take the plastic discs that were "end caps" on cubicles in the dispatch area and throw them at her, trying to hit her in the breast. [REDACTED] admitted that he would often pull off and play with the plastic discs while talking to other Department employees in the dispatch area, and that he would play with them, sometimes tossing them at fellow employees, both male and female, in a joking manner. However, he did not try to hit [REDACTED] in the breast, nor did he only toss the discs at [REDACTED]

██████████ claimed that ██████████ "frequently asked [her] to meet him alone," including an invitation to his home while his wife was away, and that later, his wife "became aware of his communications towards her" and accused ██████████ of "home wrecking." ██████████ stated that at some point at the end of 2012 and early 2013, he and his wife were experiencing some marital difficulties. At that time, there was some mutual interest between himself and ██████████ that resulted in talking back and forth over text messages and Facebook. In addition, he and ██████████ would socialize together after their shifts ended ██████████. However, he did not recall asking ██████████ to come to his home while his wife was away. Eventually, ██████████ wife saw some of these messages and reached out to ██████████ directly. This resulted in ██████████ disconnecting from ██████████ on Facebook and expressing his apologies to ██████████ for his wife reaching out to her.

In her Charge, ██████████ also alleged that ██████████ was often responsible for covering her bathroom breaks but refused to do so when she did not participate in his "sexual conversations." ██████████ denied this and stated that if he was asked to cover ██████████ breaks, he did so, unless he was not available, in which case he would ask her to notify an officer to come in and cover the break.

██████████ referred to ██████████ claiming ██████████ "had a preference for urinating on women" that was referenced in a text on November 20, 2013. ██████████ stated that he did not make these claims, but that ██████████ would discuss this preference with other Department employees. ██████████ had no specific recollection of the November 2013 text on the subject. ██████████ is no longer with the Department.

██████████ also alleged that ██████████ harassed one of the Department's new dispatchers in or about August of 2015. ██████████ did not know who this allegation referred to, but stated that he did not engage in any conduct that would constitute harassment and had never received any complaints regarding his conduct with respect to ██████████ or any other dispatcher.

In ██████████ Charge, she alleged that in the spring of 2017, ██████████ had a ██████████ female participate in a "ride-along" with him, and that he led a "highly sexually inappropriate conversation" in front of this female along with several patrol officers. ██████████ did not have a memory of this ██████████ female ride along or allegedly inappropriate conversation. He also noted that in the spring of 2017 he was working in the ██████████ and would be unlikely to be involved in a ride-along, and was also out on paternity leave for a good portion of spring 2017. In addition, ██████████ noted that it was his practice to keep individuals who were at the Department for "ride-alongs" away from groups of patrol officers to avoid the possibility of a civilian overhearing a confidential discussion among patrol officers.

██████████ further alleged that in the summer of 2017, ██████████ began to tease another female dispatcher about being sexually involved with an obese Hispanic male named ██████████. ██████████ had no recollection of any such interaction.

██████████ also alleged that during her employment, ██████████ would walk into the dispatch center and comment on the smell or the temperature, describing it as "swampy," "moist,"

and "musty," and saying the dispatchers were "stewing in their own juices." She claimed that in June of 2017, the most recent memorable incident of this occurred when [REDACTED] used the word "moist" specifically because he was in the dispatch center with [REDACTED] who does not like the word "moist." [REDACTED] stated that he was certain he had remarked on the smell or temperature in the dispatch area, as there were issues with air circulation. The temperature could become warm and the air stagnant. He acknowledged that [REDACTED] dislikes the word "moist" but had no memory of the June 2017 incident as described by [REDACTED].

Last, [REDACTED] alleged that in February of 2018, a harassment survey was "mandated" for Department employees to complete, that the survey was "not anonymous," and that "negative" responses—presumably referring to responses indicating sexual harassment had occurred—were sent to the internal affairs division of the Department for investigation. [REDACTED] also highlighted certain questions about whether the respondent to the survey had been harassed or observed harassment in the past year as placing her in a position either to be untruthful, face discipline for insubordination, or be disciplined for not intervening in harassment. She alleged that it was her understanding that [REDACTED] was charged with "evaluating" the surveys.

[REDACTED] acknowledged that the surveys were issued to all members of the Department, but noted the questions highlighted by [REDACTED] were ultimately deemed not mandatory, in that respondents could opt for the choice "I Prefer Not to Answer" in response to both questions. He also indicated that while the survey responses were [REDACTED] it was [REDACTED] who reviewed any "negative" responses, i.e. those responses indicating that the respondent had experienced or observed sexual harassment.

[REDACTED]
[REDACTED] has been with the Department for over [REDACTED] years. Prior to his promotion to [REDACTED] working [REDACTED] shift and interacted with [REDACTED] regularly.

[REDACTED] alleged in her Charge that in the summer of 2016, [REDACTED] was working as her shift commander, she asked to leave her shift early. She alleged that [REDACTED] requested she show him what she was wearing when she left work, or else he would not allow her to leave shift early, and that he made the request in front of a new female dispatcher still in her training period. [REDACTED] had no memory of this interaction at all and stated he would never say something to that effect to a dispatcher or anyone at the Department.

[REDACTED] also confirmed that the harassment survey [REDACTED]. He stated that the reason that the survey was not anonymous was to provide the Department a means to investigate any complaints of sexual harassment, and he indicated that the two questions highlighted by [REDACTED] had the option of providing "I Prefer Not to Answer" as a response. He also noted that the Department only received three "negative" responses, indicating that the respondent had experienced or witnessed sexual harassment. Upon investigation, one of the responses concerned the events underlying a sexual harassment investigation that was already underway, and the other two had submitted a "negative" response in error.

[REDACTED]

[REDACTED] is in his [REDACTED] year with the Department. In early 2017, he was promoted [REDACTED] and returned to the patrol division. This promotion returned [REDACTED] to working [REDACTED] shift more regularly and he had some interaction with [REDACTED]. [REDACTED] recalled [REDACTED] complaining to others about the working conditions in the dispatch area, including the state of the carpeting and issues with vermin, though she did not make complaints directly to [REDACTED].

In her Charge, [REDACTED] claimed that in the fall of 2017, she was in the lunchroom discussing issues with the dispatch center to the shift supervisor, [REDACTED] when he interrupted and told her that she "needed to get fucked really good." [REDACTED] added that this remark was in front of a patrol officer that she is in a relationship with, and that such comments were "standard" throughout her employment. [REDACTED] had no recollection of this incident and noted that he would never say something like that. He did not recall any comments of a sexual nature or any inappropriate remarks being made to [REDACTED].

[REDACTED]

[REDACTED] has been with the Department for [REDACTED] years. He was promoted to [REDACTED] in [REDACTED] and was promoted to [REDACTED]. The only time that he worked on [REDACTED] shift was as a [REDACTED] for approximately eighteen months. To his recollection, the dispatchers performed their duties with little oversight from the [REDACTED] and would only seek them out as needed. [REDACTED] was not privy to any complaints by [REDACTED] with respect to her working conditions.

As related above, [REDACTED] alleged that [REDACTED] called her into his office while [REDACTED] was there and said something to the effect of, "I want to see how many seconds until [REDACTED] sexually harasses you." [REDACTED] stated that this allegation was totally false, and stated that kind of conversation would never take place in his office. He also denied ever seeing [REDACTED] engage in inappropriate behavior, and stated that [REDACTED] had never made any complaints to him about harassing behavior, whether by [REDACTED] or another Department employee.

[REDACTED]

[REDACTED] has been with the Department for [REDACTED] years. On occasion, when [REDACTED] worked overtime, he would interact with [REDACTED]. He was also assigned to [REDACTED] shift for a year. [REDACTED] did not recall any complaints by [REDACTED] concerning issues with her workplace or harassing behavior.

As related above, in her Charge, [REDACTED] alleged that in spring or summer of 2012, she was in [REDACTED] office and had been scratching her shoulder when [REDACTED] remarked she was "playing with her boobs and "giving [REDACTED] a chubby." [REDACTED] had no

recollection of this incident. He added that he has never witnessed any comments or behavior directed at [REDACTED] that he perceived as inappropriate.

[REDACTED]
[REDACTED] has worked for the Department for [REDACTED] years, and has worked all three shifts during that time. She worked with [REDACTED] on occasion, as she covered another dispatcher's [REDACTED] shifts for approximately six months in 2017. [REDACTED] stated that she observed the same issues with working conditions that [REDACTED] identified in her Charge, including the general lack of cleanliness in the dispatch workspace, the fact that dispatchers could not park in the police station parking lot, and the difficulty in obtaining coverage to take breaks.

In her Charge, [REDACTED] alleged that she was assigned to attend a conference reviewing vendors for new departmental software in September 2017, and [REDACTED] called her at home to discuss schedule changes. [REDACTED] claimed that during this conversation, there was yelling in the background and that [REDACTED] informed her that the officers in the background were asking what [REDACTED] was wearing to the training the next day. [REDACTED] confirmed that around that time, [REDACTED] was assigned to attend a conference, and that she and [REDACTED] spoke frequently about scheduling, but had no recollection of the specific incident [REDACTED] described, including the alleged remark that officers were asking what [REDACTED] would wear to the training the next day.

[REDACTED]
[REDACTED] has served in the Department for over [REDACTED] years. Currently, he is the [REDACTED] for the Department. He did not recall any reports from [REDACTED] regarding sexual harassment or inappropriate behavior by members of the Department until [REDACTED] attorney raised the subject at a workers compensation hearing in January of 2018. He did recall that [REDACTED] placed a "Petri dish" in the dispatch area, ostensibly to test for the presence of contaminants in the room, and later deposited the dish on a supervisor's desk without comment. [REDACTED] understood this to be [REDACTED] way of lodging a complaint about the conditions in the dispatch area.

[REDACTED] alleged in her Charge that in June 2017, [REDACTED] ordered the door between the dispatch area and the adjoining supervisor's office closed in retaliation for dispatchers filing a grievance, cutting off airflow to the dispatch area. [REDACTED] stated that the door between the dispatch area and the adjoining supervisor's office is always supposed to be closed by Department policy, as the supervisor's office is a secure room where law enforcement officers store and retrieve service weapons and other material that cannot be kept in an unsecured room. For a period of time while the HVAC system servicing the dispatch area was being repaired, the door was opened to allow for airflow, but once the issue was remedied in June of 2017, the established policy of keeping the door shut continued to be enforced.

In her Charge, [REDACTED] also alleged that [REDACTED] placed a ban on all electronics and cell phones in dispatch, which no other Department employees or City employees

have been subjected to. [REDACTED] confirmed that dispatchers are required to store their cell phones and electronic devices in their lockers and only use them during breaks. He noted that law enforcement officers often need their cell phones while on duty in the field in order to relay confidential information to fellow Department employees that cannot be shared over the radio. Because dispatchers are working in an area equipped with a telephone, and because it is critical that dispatchers are free from distractions in order to respond to incoming calls, their use of personal electronic devices is restricted to break times.

Further Investigation

In addition to interviewing Department employees, I also reviewed the Central Falls Police Department Rules and Regulations (the “CFPD Regulations”), the Department’s Discrimination & Harassment in the Workplace Policy (the “CFPD Policy”), and the Harassment Prevention Policy for the City of Central Falls (the “City Policy”). In addition, I reviewed records from [REDACTED] workers compensation proceedings and learned that she has been out of work since October 6, 2017, first using Family and Medical Leave Act (FMLA) leave, then using her vacation and personal time, and ultimately seeking workers compensation. In her communications to the Department regarding her leave, [REDACTED] characterized her medical leave was a result of the working conditions in dispatch, but did not complete a First Report of Injury as required for an injury sustained at work. During this time, [REDACTED] did not report experiencing sexual harassment or a hostile work environment at the Department.

I also reviewed a memorandum and correspondence from Jackeline Parra, the City’s Director of Human Resources, concerning efforts by the City to respond to concerns raised by dispatchers regarding their working conditions. From those records, I learned that Department dispatchers voiced concerns about their working conditions to the City in response to a Public Safety Dispatcher Employee Satisfaction Survey circulated in October of 2016, and that these concerns were raised again in June of 2017 with the Director of Human Resources by certain dispatchers, including [REDACTED]. I understand from these records and from my conversations with Department management that on neither occasion, and at no time prior to the workers compensation hearing in January of 2018, did [REDACTED] raise any complaint or concern about sexual harassment or a hostile work environment at the Department.

Applicable Rules and Regulations

The Department has several policies in place that prohibit harassment and discrimination on the basis of sex. The CFPD Regulations prohibit members of the Department from engaging in conduct “which has the effect of discriminating or harassing other individuals because of . . . gender,” among other things. Likewise, the CFPD Policy also indicates that harassment “will not be tolerated and necessary action will be taken to prevent and remedy any reported incidents of harassment,” adding that “in particular, sexual harassment will result in vigorous intervention and severe disciplinary action.” Last, the City Policy works in tandem with the Department’s Harassment Policy. It defines sexual harassment and provides examples of conduct that meets that definition.

State and federal law also prohibit workplace sexual harassment and discrimination. Sexual harassment is actionable when it results in a hostile work environment, which is a workplace “permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment.” *Wilson v. Moulison North Corp.*, 639 F.3d 1, 6-7 (1st Cir. 2011) (internal quotation marks omitted) (emphasis added). “The test for determining a gender-based hostile work environment claim is whether: (1) the employee is a member of a protected class; (2) the employee was subjected to unwanted harassment; (3) that harassment was based upon his or her sex; (4) ‘that the harassment was sufficiently severe and pervasive so as to alter the conditions of plaintiff’s employment and create an abusive work environment’; (5) that harassment ‘was both objectively and subjectively offensive, such that a reasonable person would find it hostile or abusive and the victim in fact did perceive it to be so’; and (6) ‘that some basis for employer liability has been established.’” *DeCamp v. Dollar Tree Stores, Inc.*, 875 A.2d 13, 22-23 (R.I. 2005) (quoting *O’Rourke v. City of Providence*, 235 F.3d 713, 728 (1st Cir. 2001)).

Analysis

My ability to investigate the allegations contained in the Charge was significantly limited by the fact that [REDACTED] declined to be interviewed.¹ As outlined above, the Department employees named in the charge for the most part did not recall the alleged events or had a different recollection of the alleged events. Consequently, I cannot conclude the events alleged that could possibly rise to the level of a violation of City policy in fact occurred.

During my investigation, it was confirmed that [REDACTED] raised various complaints about the working conditions in the dispatch area, including issues with mice and other pests and the general cleanliness of the room. She also used a “Petri dish” test in the dispatch area that she later placed on a supervisor’s desk without comment. However, there was no evidence to connect [REDACTED] varied complaints regarding her working conditions with her gender. My investigation indicated that problems with the working conditions in the dispatch area arose from structural issues, such as the problem with the HVAC system that was ultimately fixed, and external forces, including the City’s bankruptcy and the subsequent necessity of merging dispatch duties for the Department along with the Central Falls Fire Department, as well as its limited funds for renovating the decades-old Department building.

Similarly, her issue with compensatory time appears to arise from her union’s collective bargaining agreement with the City, which provides that compensatory time cannot be granted if it results in overtime. I found no indication that this contractual provision, which was negotiated by [REDACTED] union and the City, connected in any way to [REDACTED] gender.

More important, [REDACTED] issues with her working conditions and her ability to accrue compensatory time did not amount to sexual harassment or a hostile work environment. Again, to rise to that level, a workplace must be “permeated with *discriminatory intimidation, ridicule, and insult* that is sufficiently severe or pervasive to alter the conditions of the victim’s employment

¹ As noted above, [REDACTED] was also not available for an interview.

and create an abusive working environment.” There is no way to impute discriminatory intent to conditions in an aging building or a contractual provision negotiated at arm’s length between a union and an employer. Whether or not [REDACTED] complaints about her working conditions are legitimate, the underlying issues do not constitute sexual harassment.

It is also significant that while [REDACTED] references alleged events dating back to 2012, she apparently never complained of any sexual harassment until January of 2018. As noted above, the City has a policy and procedures in place to investigate claims of harassment. [REDACTED] evidently never availed herself of these procedures. She also did not raise any complaints of being subjected to sexual harassment when she met with the City and her union in 2017 regarding concerns related to working conditions and compensatory time.

Finally, it should be noted that at least some of the alleged events, if true, are not consistent with the professional operation of the Police Department. The Department and its personnel have an ongoing obligation to maintain a work environment that is free from offensive behavior. There needs to be a commitment by all of the Department’s employees to maintain an appropriate and professional work environment.

Conclusions

After reviewing all of the relevant documents, including the applicable rules and regulations, and conducting eleven interviews with Department personnel, I am unable to substantiate [REDACTED] claim that she experienced sexual harassment while employed at the Department.

Sincerely,

PANNONE LOPES DEVEREAUX & O’GARA LLC



William E. O’Gara

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August 6, 2018

Via First-Class Mail

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Mayor James A. Diossa
Director of Public Safety
City of Central Falls
580 Broad Street
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Re: Supplemental Report on Investigation into Sexual Harassment Allegations
by [REDACTED]

Gentlemen:

I am writing to supplement my previous report. On July 26, 2018 I met with [REDACTED] and her legal counsel.

Interview of [REDACTED]

[REDACTED] began working for the Central Falls Police Department (the "Department") as a [REDACTED] starting on [REDACTED] though she had worked as a [REDACTED] and dealt with members of the Department for several years prior to starting the [REDACTED] position. She described her regular shift as [REDACTED] but said she had worked all three shifts at various times, whether to pick up overtime or because the Department needed coverage on those shifts. [REDACTED] stated her weekly hours would fluctuate, but on average, she worked approximately fifty (50) hours per week as a [REDACTED]

[REDACTED] indicated that [REDACTED] was the supervisor for [REDACTED] but that while [REDACTED] was working [REDACTED] shift, her on-shift supervisor would be the [REDACTED] either a [REDACTED] depending upon who was scheduled that day. She explained that any pressing concerns that came up for her during a shift would be reported to [REDACTED] but to the extent an issue could wait, it would be raised with [REDACTED] confirmed that within six months of her hiring, she began raising complaints about her workspace and other issues related to her working conditions. This included at least one occasion in 2014 when [REDACTED] raised issues about staffing for [REDACTED] and coverage for bathroom breaks at a meeting with Human Resources and her union, and again in May of 2017 to discuss the lack of compensatory time available to [REDACTED] and ongoing issues with coverage for bathroom breaks, again through [REDACTED] union.

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Despite these meetings, [REDACTED] confirmed that she did not make any complaints about sexual harassment during her employment at the Department. She felt there was an expectation at the Department that employees would not “just walk over to City Hall” and that if there was a problem, it would be kept in the Department. [REDACTED] stated that at first, she pushed back on what she perceived to be offensive comments by colleagues, but felt that those individuals in the Department making comments to her would “do it more” or that it seemed to be “worse” when she made it clear that those types of comments upset her. She also described text messages that she exchanged with [REDACTED] about concerns for a new [REDACTED] who [REDACTED] believed was being harassed by [REDACTED].

More generally, [REDACTED] reiterated the allegations made in her Charge of Discrimination, describing incidents of behavior and comments that she found offensive. When asked about the dates attributed to certain incidents, [REDACTED] frequently referred to Facebook messages and comments that provided her the ability to connect a certain comment with a particular date. For instance, regarding the comment by [REDACTED] about a shirt of [REDACTED] that was “see-through,” [REDACTED] stated that she posted a picture of herself in the shirt on Facebook, there was a complimentary comment about the picture, and then [REDACTED] commented, “Ditto.” Her attorney has indicated that he will provide Facebook comments and messages that [REDACTED] referenced during her interview that assisted her in providing dates for certain incidents, as well as any related text messages.

During her interview, [REDACTED] also confirmed that she would socialize with members of the Department, including [REDACTED] after work hours. She added that she and [REDACTED] would text back and forth on a weekly basis, often about those social gatherings, with messages about what shifts they were scheduled to work and about trying to get drinks after a certain shift. She also described [REDACTED] sending her text messages both during shifts and outside of work that she felt were unwelcome.¹ In sum, [REDACTED] statements during her interview closely tracked those in her Charge of Discrimination.

Analysis

As noted in my initial report, sexual harassment is only actionable from a legal perspective when it results in a hostile work environment: that is, a workplace “permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment.” *Wilson v. Moulison North Corp.*, 639 F.3d 1, 6-7 (1st Cir. 2011) (internal quotation marks omitted) (emphasis added). To rise to that level, an employee must make the following showings: “(1) the employee is a member of a protected class; (2) the employee was subjected to unwanted harassment; (3) that harassment was based upon his or her sex; (4) ‘that the harassment was sufficiently severe and pervasive so as to alter the conditions of plaintiff’s employment and create an abusive work environment’;

¹ As noted in the initial report, we contacted [REDACTED] attorney and was told [REDACTED] declined to submit to an interview at this time. [REDACTED] also declined to discuss in any detail the allegations related to [REDACTED].

(5) that harassment 'was both objectively and subjectively offensive, such that a reasonable person would find it hostile or abusive and the victim in fact did perceive it to be so'; and (6) 'that some basis for employer liability has been established.'" *DeCamp v. Dollar Tree Stores, Inc.*, 875 A.2d 13, 22-23 (R.I. 2005) (quoting *O'Rourke v. City of Providence*, 235 F.3d 713, 728 (1st Cir. 2001)).

As an initial matter, it is not clear from my interview with [REDACTED] whether all of the conduct described was unwanted. For example, the text messages back and forth between [REDACTED] as well as the fact that they regularly socialized together outside of work, confirmed by both individuals, suggests that at least some of the interactions between [REDACTED] and [REDACTED] may not have been occurrences of "unwanted harassment" within the meaning of a hostile work environment.

In addition, [REDACTED] confirmed that she did not report the sexual harassment to Human Resources during the five years she alleged that it occurred. Although she indicated that going to "City Hall" was viewed negatively by others within the Department, she raised other complaints about her working conditions with Human Resources in the intervening years, notably in 2014 and again in 2017, apparently without any indication to Human Resources that she was also experiencing sexual harassment.

Conclusions

After interviewing [REDACTED] I am unable to conclude that she experienced a hostile work environment. Her allegations of sexual harassment do not rise to the level of an actionable legal claim. However, as I stated in my initial report, at least some of the alleged events described by [REDACTED] if true, are not consistent with the maintenance of a professional work environment at the Department.

Sincerely,

PANNONE LOPES DEVEREAUX & O'GARA LLC



William E. O'Gara

William E. O'Gara
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October 4, 2018

City of Central Falls Police Department
ATTN: Colonel James J. Mendonca
160 Illinois Street
Central Falls, RI 02863

Mayor James A. Diossa
Director of Public Safety
City of Central Falls
580 Broad Street
Central Falls, RI 02863

Re: Second Supplemental Report on Investigation into Sexual Harassment
Allegations by [REDACTED]

Gentlemen:

I am writing once again to supplement my previous report. On October 3, 2018 I met with [REDACTED] and his legal counsel.

Interview of [REDACTED]

[REDACTED] began working at the Central Falls Police Department (the "Department") in [REDACTED] as a patrol officer. While serving as a patrol officer, [REDACTED] worked all three shifts, and also picked up overtime, frequently on [REDACTED]. In [REDACTED], while still a patrol officer, [REDACTED] began performing [REDACTED] with the Department's [REDACTED]. In the course of that work, [REDACTED]. In [REDACTED], [REDACTED] was promoted to [REDACTED] and continued to work [REDACTED].

[REDACTED] state that he had very little interaction with Department [REDACTED] both while he was a patrol officer and since his promotion to [REDACTED]. He spent most of his time in the field as a patrol officer, typically returning to the Department for meal breaks and to submit reports.

[REDACTED] testified that he first met [REDACTED] in 2011, before she began working as a [REDACTED] for the Department. It was [REDACTED] understanding that at that time, [REDACTED] was working as a [REDACTED]. He met [REDACTED] at the Ground Round in Pawtucket at an after-work outing of Department employees. According to [REDACTED] that night, he and [REDACTED] struck up a friendship, and the pair of them, along with another friend, planned to continue drinking elsewhere that night. At some point, the other friend left the group, and [REDACTED] returned to [REDACTED] residence that evening. [REDACTED] stated that [REDACTED] was one of the two times he visited [REDACTED] residence.

From 2011 on, [REDACTED] stated that he remained in regular contact with [REDACTED] primarily through text messages, and that they would text “back and forth” about once a week, typically about going out drinking after work. He also stated that on one other occasion, sometime in 2012 or 2013, he visited [REDACTED] home again. [REDACTED] related the events of the evening, which involved an after-work going-away party for [REDACTED] boyfriend, another Department employee. According to [REDACTED] [REDACTED] became heavily intoxicated, and so he assisted her home along with another friend, helping her to get into her house after she lost her keys.

[REDACTED] added that [REDACTED] never objected to his text messages, emails, or any other communications. After being provided with various communications from [REDACTED] attorney, I have had the opportunity to review [REDACTED] text messages with [REDACTED] and can confirm that they are largely social invitations and that [REDACTED] did not object to receiving those messages other than to decline the invitations, at least not in the exchanges provided to my office. There are a few exceptions, including comments by [REDACTED] to [REDACTED] that “U have a sexy voice,” and “Rrrrr that voice drives me nuts.” [REDACTED] also stated that at some point after [REDACTED] started working at the Department, he emailed her on one occasion to apologize, because he was married and “felt badly” about his conduct.

Analysis

As noted in my initial and supplemental reports, sexual harassment is only actionable from a legal perspective when it results in a hostile work environment: that is, a workplace “permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment.” *Wilson v. Moulison North Corp.*, 639 F.3d 1, 6-7 (1st Cir. 2011) (internal quotation marks omitted) (emphasis added). To rise to that level, an employee must show, among other things, that she was subject to “unwanted harassment” and “that some basis for employer liability has been established.” *DeCamp v. Dollar Tree Stores, Inc.*, 875 A.2d 13, 22-23 (R.I. 2005) (quoting *O’Rourke v. City of Providence*, 235 F.3d 713, 728 (1st Cir. 2001)).

[REDACTED] claims against [REDACTED] in her Charge of Discrimination that arose during her employment at the Department concerned unwanted text messages that she received from him “[t]hroughout the entire duration of [her] employment,” which attempted to “get [REDACTED] to go out drinking, to come over [REDACTED] house, or remark on [her] ‘sexy’ voice or appearance.”

However, that [REDACTED] texts or communications to [REDACTED] were “unwanted” is not apparent from either the texts themselves or [REDACTED] statements regarding their interactions. Moreover, there does not appear to be any basis for employer liability where [REDACTED] never reported [REDACTED] allegedly unwanted communications to the Department. [REDACTED] statements confirmed that evidently no one at the Department knew of the issue, as neither [REDACTED] nor anyone at the Department communicated to him that his texts to [REDACTED] were unwanted or problematic.

Conclusions

After interviewing [REDACTED] I remain unable to conclude that [REDACTED] experienced a hostile work environment. The text messages that we reviewed appear to be largely social invitations rather than comments of a sexual nature. Because she never indicated that his communications were unwanted, nor was the Department aware of the allegedly unwanted text messages, her allegations of sexual harassment do not rise to the level of an actionable legal claim. At the same time, as I stated in my initial and supplemental reports, some of the text messages sent by [REDACTED] while they were coworkers at the Department, such as those referencing her "sexy" voice, were inconsistent with the professional standards of the Department.

Sincerely,

PANNONE LOPES DEVEREAUX & O'GARA LLC



William E. O'Gara